

Unanticipated Amendment Exception (UAE) RAP

Request Guide

- When an unanticipated amendment to an existing contract above \$100,000 would be beyond the limits described in AAM 81.700 / 2 AAC 12.485(d) (i.e. exceeds the lesser of \$100,000 or 20% of the value of the current term of the contract), the agency must send its request to exceed the limits to the Division of General Services via a UAE RAP.
- Remember that the 20% rule applies to the *current* term of the contract. For example, you might have an initial one-year contract with four one-year renewal options and each of the five terms is valued at \$100,000. The rule applies to the value of the current \$100,000 term you are in, not the total value of the contract including renewals or the aggregate value of renewals to date.
- Agencies must be aware that when processing internal unanticipated amendments, a combination of these amendments that would result in exceeding the \$100,000 or 20% rule requires a UAE RAP. For example, if the value of the current contract term is \$100,000, unanticipated amendments may be processed for a combined total of \$20,000. Any unanticipated amendment beyond that amount requires a UAE RAP.
- Small procurement contracts cannot be amended to exceed \$100,000 without the approval of a UAE RAP. Unanticipated amendments to small procurement contracts that do not cross the \$100,000 threshold do not require a UAE RAP for internal processing, though agencies may choose to use the RAP form internally for convenience.

UAE RAP Required Information

- ✓ **Executive Summary:** Provide a summary of the overall project/contract.

Example: "This contract was solicited via an RFP in January 2015 and was for the vendor to provide development, installation, and maintenance of a software system that provides tracking of widgets that departmental employees use in the field."

- ✓ **Legitimacy:** Clearly explain whether the amendment being requested is legitimate and due to unforeseen circumstances that occurred as work progressed, and whether the reasons for the amendment were unforeseen at the time the contract was established, as opposed to an effort to evade procurement requirements. Include specific reasons why it's in the state's best interests to amend.

Example: "This contract was solicited via an RFP in January 2015 and was for the vendor to provide development, installation, and maintenance of a software system that provides tracking of widgets that departmental employees use in the field. A recent change in federal regulations mandates that the department implement additional features to the software. Failure to implement these additional features will result in the department being unable to meet these new regulations and ultimately the loss of federal funding being used for this project."

NOTE: You may also include other documentation to help explain the background of the project and why the amendment is necessary, such as a memo or email from the project manager or another subject matter expert directly related to the project.

- ✓ **Scope:** If the work changes the original scope of the contract or alter the intent of the original services, attach a clear explanation.

Example: "The original scope of this contract was for the vendor to provide development, installation, and maintenance of the department's widget tracking software. The work set out in the requested amendment is to purchase an additional software module to perform tracking that ensures the department is able to meet federal regulations."

- ✓ **Contract Clauses:** If the original contract **does not** contain a clause authorizing modification, attach an explanation.

Example: "While the contract does not contain a clause authorizing modification, the contractor has agreed to perform the additional work at the awarded costs, which saves the state \$100,000/year."

- ✓ **Extent:** If the amendment contains an important general change that alters the main purpose of the contract and/or contains material of such individual importance as to constitute a new undertaking, explain why it should be approved.

Example: "This amendment will change the purpose of the contract, which was to provide the department software that tracks widgets in accordance with federal regulations, but the amendment is necessary to comply with updated regulations and competing the contract would delay implementation and potentially cost the state an additional \$1 million."

NOTE: An amendment that changes or alters the main purpose of the contract or generally constitutes a new undertaking will receive much more scrutiny. It's likely that either a new solicitation is necessary unless evidence supporting a single source RAP exists.

- ✓ RAP amount and if applicable, how the amount requested will be distributed (e.g. \$100,000 will be divided equally among the two remaining one-year contract terms).
- ✓ Copies of the original contract face page and all contract amendment face pages and/or pages that show the value of the amendments.
- ✓ Copies of any RAPs directly related to the project.